

Exhibit 1

Declaration of Lee M. Ayers

1. I am currently incarcerated at the Butner FCI II (“FCI Butner Medium II”) at FCC Butner, in housing unit MC. My Bureau of Prisons (“BOP”) Register Number is 03882-007.

2. I am 37 years old.

3. I have been in custody for over 11 years. I am currently serving a reduced 72-month sentence for unlawful distribution of “50 grams or more” of cocaine base, consecutive with a D.C. Superior Court sentence of 108 months for assault with a dangerous weapon, under an aider and abettor theory. The victims in the case are unknown and no one was injured.

4. My release date is March 5, 2022.

5. In 2011, BOP transferred me from USP Florence to FCI Butner Medium II. I am currently assigned a medical care level 2.

6. In 2015, I was diagnosed with pernicious anemia, which is a severe vitamin B deficiency. I was diagnosed nine months after I first complained of symptoms. I had an MRI in 2015 that showed that my spinal cord is abnormal and the likely cause is my vitamin B deficiency. I suffer from chronic constipation and severe stomach pain. Because of my severe vitamin B deficiency and peripheral nerve problems, I also have trouble walking, muscle weakness, pain, loss of balance, and tingling and numbness in my hands and feet. I am prone to falls because of my muscle weakness. I had to use a wheelchair, walker, and cane from around September 2015 to March 2016. I was prescribed a laxative (Lactose), but this medication has been ineffective to address my persistent pain and constipation. In June 2019, I was briefly prescribed a medication (Bisacodyl) that helped relieve my pain, but BOP discontinued it in August 2019. BOP then put me back on the same Lactose laxative that failed to stop the pain

previously. In March 2020, I started receiving the Bisacodyl medication again, and my constipation has slightly improved.

7. In April 2019, I was diagnosed with a chronic autoimmune disorder called atrophic gastritis. Atrophic gastritis is a condition that results from long-lasting inflammation of the stomach lining and, if untreated, increases the risk of gastric cancer. The disorder also causes my immune system to destroy some cells in my stomach lining needed to produce the gastric acid that aids in my digestion and produce the substance necessary to absorb my vitamin B12. Despite my diagnosis and order for follow-up in April 2019 and in June 2019, the BOP failed to provide me any follow-up treatment or develop a long-term treatment plan. In August 2019, my BOP doctor, without explanation, cancelled my follow-up for my atrophic gastritis with a Gastroenterologist specialist to minimize the progression of and risks of my illness. The BOP also refuses to acknowledge my diagnosis of atrophic gastritis.

8. It is my understanding that my immune system is compromised based on these conditions.

9. I believe that my medical problems and ongoing symptoms result from BOP's delay in diagnosis and inadequate treatment for my serious medical needs.

10. I am housed in a celled unit of about 120 men. We live in small cells. Each cell houses two to four people. My cell is about 8' x 6'. The cells range in size from about 8' x 6' to 8' x 8. There are about 60 cells in my housing unit, one right next to the other on two tiers. The majority of the cells have two people in them. I am in a cell with another person. My cellmate and I sleep in a bunk bed.

11. In the other cells on my unit with four people, the two bunk beds are arranged in an L-shape. There is only about one foot of space between the bunk beds.

12. The unit is divided into two tiers of about 60 prisoners each. Each tier is shaped like a horseshoe. All 12 units at FCI Butner Medium II have two tiers of about 60 prisoners on each tier.

13. My unit and the other units at FCI Butner Medium II are under a COVID-19 related lockdown since April 1, 2020. The BOP initially told the prisoners that it expected to lift the lockdown on April 15, 2020, but told us it was extended to May 18, 2020. On May 18, 2020, the BOP partially lifted the lockdown. However, the BOP restored the lockdown on May 20, 2020. BOP staff told us that the BOP restored the lockdown because there are still confirmed coronavirus cases at FCC Butner. BOP staff also told us that the lockdown is extended until June 30, 2020. For the two days on partial lockdown, we had out of cell time on Monday and Tuesday from 7:00 am to 3:30 pm.

14. Because we are on total lockdown, we have limited time out of ours cells of three hours a week. During lockdown, the BOP allows 30 prisoners at any given time out for an hour of recreation on Mondays, Wednesdays, and Fridays. During recreation, we only have an hour to use the phone, shower, email, wash our clothing, get supplies to clean our cells, and/or watch television. The facility lets us out for recreation in about four shifts, one side of a tier at a time and about 15 cells at a time. It is my understanding that this is the practice for all the 12 housing units at FCI Butner Medium II.

15. All 120 people in the housing unit have to share a toilet and sink in their cells. We all share 12 total showers, 6 on each tier. The showers are about 2' or 3' from each other. People are in very close contact in the bathrooms.

16. BOP provides hotel soap once a week upon request or prisoners purchase it at commissary. Prisoners on my unit have access to disinfectant spray upon request to clean their

cell or other surfaces. But these products are not available to us at all times and the disinfectant spray does not contain alcohol.

17. Laundry is available once or twice a week during the lockdown. We can wash all our clothes, but we are limited to washing one item from our bedding, like a blanket. We have to wait in line to do laundry. Under lockdown, its impossible to do a load of laundry in an hour. Once a week staff come to our unit to take our laundry to wash. When we are not under a lockdown, we are able to do laundry when we want and there was no limit on how much bedding we can wash.

18. Meals are brought to the housing unit on a cart three times a day. BOP staff started bringing our meals to our cells since the April 1, 2020 lockdown. When we are done with our meals, staff collect our trays.

19. We all use and have to touch the same water fountain and ice machine on our unit when we are out on recreation.

20. Pill call happens about two to three times a day. Staff bring the medication to our cells. Some men, including myself, self-carry their medication if BOP determines you can self-carry.

21. There are six phones for the housing unit. They are about one foot apart each. People line up to use the phones. There is no social distancing in the phone lines. The lines can be long. We are only allowed 5-minute phone calls. We wait about 10-15 minutes in the line. The phones are cleaned once or twice a day. The prisoner who is using the phone has to clean the phone in between use if they wish. But I have not seen anyone do this. I wipe the phone down with my shirt. We can bring rags to wipe the phone or cover it, but we do not have supplies readily available to disinfect the phone before or after using it.

22. There are five computers in a computer area for use by the men in the housing unit. All of them are on one side of the common area, with one foot between them. We sit shoulder to shoulder while at the computer. Four computers are used for email. The other computer is for legal work. The computers are pretty much always in use. People wait around, close to each other, in the computer common area while they wait to get on the computer. I believe the computers get cleaned or disinfected once or twice a day, but not in between uses.

23. BOP gave us cloth masks that were made by UNICOR employees. My masks are too small and do not fit my face well. The material is like a blanket.

24. Most staff, but not all, wear their masks since the lockdown started.

25. There are quite a few people on my unit that are elderly or have serious medical conditions. Before the lockdown, multiple people got sick at FCI Butner Medium II and we were told that they had the flu. On my compound at FCI Butner Medium II, BOP told us that someone died of the flu. Since the lockdown, I observed one person on my unit who was sick. I believe all 12 units at FCI Butner Medium II also house people who are elderly and/or have serious medical or mental health conditions.

26. If a person in the housing unit gets sick, they must request sick call in order to get their temperature taken. If their temperature is high enough, I believe they are taken off the unit and placed in the Special Housing Unit or SHU. Although I am concerned that I have been exposed to COVID-19, BOP has never put me on quarantine. I do not know anyone on my unit that BOP has put in quarantine.

27. There has been no widespread testing for coronavirus in my housing unit. I am aware that BOP tested one person on my unit for COVID-19. It is my understanding BOP is not currently testing anyone at our facility. I have not been tested for COVID-19. BOP staff have not

taken my temperature or verbally screened me for the virus.

28. Routine healthcare is limited because of the lockdown. I was told that dental care is limited during the lockdown. It is harder to be seen on sick call. I have put in two sick call requests since the lockdown, but staff have not responded.

29. Everyone in my housing unit, including myself, have jobs with UNICOR or with the private contractor. We went to our job with UNICOR and the private contractor with people from another housing unit. I am not working currently for the private contractor because of the crisis, but the men that work for UNICOR are currently working.

30. Correctional officers and other staff move between units on a rotation. I know this because I observe them moving in between units and am aware that different staff go to different units for count. I regularly see two to three staff working in my unit now who did not work in my unit before the coronavirus crisis. I also believe that staff escort prisoners to outside hospitals. About two weeks ago, the Deputy Warden and a BOP Captain came to our unit.

31. BOP staff do not give us regular updates and information about COVID-19. BOP does not give us updates about any steps BOP is taking to limit the spread of the virus in our facility. I do not recall getting letter from the Director of BOP about COVID-19 and BOP's response.

32. I believe on May 19, 2020, my federal public defender filed an emergency motion for compassionate release in the U.S. District Court for the District of Columbia. I filed a pro se motion requesting compassionate release in March 2020 in D.C. Superior Court. I believe that motion is still pending. I am working with another attorney from a law firm who is planning to file a motion for compassionate release in D.C. Superior Court soon. I

attempted to file a BP-8 and BP-9 grievance regarding compassionate release to the Warden on December 2, 2019 and March 25, 2020, but the Warden denied my grievances. I do not believe there is an emergency grievance process.

33. I am not aware of anyone who has been released due to their medical condition.

34. I can live at my mother, Rhonda Ayers' home, in Washington, DC if I am released to home confinement. The U.S. Probation Office already approved my release residence in August 2019. I would be able to self-isolate in the house 14 days and I would have access to medical care if I needed it. I have saved money through my job to help pay for my needs if released.

35. I filed this lawsuit to make FCC Butner change its policies and practices relating to the protection of the people in its custody from the risk from COVID-19. I am committed to trying to make that happen. I understand that being a class representative in this lawsuit means I will have to make decisions not just in my own interest, but also in the interest of the other people in the class, and I accept that responsibility.

I, Lyndsay Niles, certify that I reviewed the information contained in this declaration with Mr. Ayers by telephone on May 20, 2020, and that he certified under penalty of perjury that the information contained in this declaration was true and correct to the best of his knowledge.

/s/ Lyndsay Niles

Lyndsay Niles

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